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COMMISSION ON HUMAN RIGHTS

Forty-ninth session

SUMMARY RECORD OF THE 14th MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 10 February 1993, at 10 a.m.

Chairman: Mr. ENNACEUR (Tunisia)

later: Mr. BROTODININGRAT (Indonesia)

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The meeting was called to order at 10.10 a.m.

STATEMENT BY MRS. JOHANNA DOHNAL, MINISTER FOR WOMEN'S AFFAIRS OF THE FEDERAL REPUBLIC OF AUSTRIA

1. Mrs. DOHNAL (Minister of Womens Affairs of the Federal Republic of Austria) wished to express once again her country's serious concern about the atrocities committed in the former Yugoslavia. Since the Austrian delegation had already taken the floor the previous day, she would concentrate on one of the particularly horrifying aspects of the conflict, namely, sexual violence against women. The findings of the Special Rapporteur among others revealed the extent to which rape was being practised in the war. Investigations conducted from 12 to 23 January 1993 in Bosnia and Herzegovina, in Croatia and in Serbia provided clear evidence that rape had been committed on a large scale throughout the conflict and that the victims had been Croatian, Muslim and Serbian women and children; it should be stressed, however, that the vast majority of women raped in Bosnia and Herzegovina were Muslims.

2. Women had always been regarded as the loot of the conqueror but the atrocities committed in the former Yugoslavia went much further. Rape was clearly being used as an instrument of ethnic cleansing and part of the strategy of warfare; it was used as a weapon by men who fought each other through the bodies of the wives, daughters and mothers of their enemies. The women who were raped were destroyed both physically and mentally. The report of the European Community's Investigative Mission headed by Dame Anne Warburton revealed that many of the women, and especially the young girls, died of the injuries inflicted by the rapists; others put an end to their lives or were even urged to do so by their families. Women were being raped not only by soldiers but also by former neighbours and relations, and numerous studies of violence against women revealed that they were sexually harassed by men in their immediate social environment and that the violence committed against them was not limited to times of armed conflict. Efforts to put an end to such violence in general must therefore be intensified.

3. The tragedy of the Nazi period had increased awareness of the danger of ethnic chauvinism and Austrians, drawing the lesson from the dramatic events that had taken place in Europe not so long ago, had adopted the slogan "never again". She proposed that the international community should use that slogan as a point of departure for its action against the atrocities committed against women in the former Yugoslavia, and hoped that the Commission would continue to follow closely the question of violations of women's rights in that region, but felt it should do so within a special framework. Accordingly, she supported the proposal to entrust a special rapporteur with the task of further investigating the violence committed against women since it was vital that systematic violations of women's rights should be taken into account more explicitly. The World Conference on Human Rights to be held in Vienna in June 1993 would provide an excellent forum for further action and she intended to submit concrete proposals on the matter during that Conference.

4. Not only must efforts to ensure respect for the fundamental rights of women be redoubled but women victims of violence must also be provided with tangible assistance. In her capacity as Austrian Minister responsible for women's affairs, she had set up, together with the Minister for Family Affairs and CARITAS, a special assistance scheme called "Victims of war: raped women".

The scheme was designed to support not only organizations that were assisting and caring for women who had been raped in Croatia but also existing facilities such as the gynaecological departments of hospitals. The positive response of many women politicians from all over the world had revealed an impressive groundswell of solidarity with the women of the former Yugoslavia and she appealed to the international community to transform that solidarity into concrete action. The victims needed more than sympathy - they needed help.

5. Mr. Brotodiningrat took the Chair.

SITUATION OF HUMAN RIGHTS IN THE TERRITORY OF THE FORMER YUGOSLAVIA (agenda item 27) (continued) (E/CN.4/1993/84; E/CN.4/1993/86)

6. Mr. BOYTHA (Observer for Hungary) said it was gratifying to note that the majority of the States members of the Commission had supported the convening of two emergency sessions on the massive violations of human rights taking place in the territory of the former Yugoslavia. The fact that the matter was being dealt with under a separate item and at an early stage during the Commission's session demonstrated its urgency.

7. His delegation remained deeply concerned by the deterioration of the human rights situation in the Serbian-controlled areas of Bosnia and Herzegovina and he noted that, as an expression of its solidarity with the victims of human rights abuses, Hungary had provided shelter to over 60,000 refugees from the territory of the former Yugoslavia and temporary transit assistance to 350 former detainees from camps in Bosnia and Herzegovina.

8. Hungary was also seriously concerned by the fact that, despite unanimous condemnation by the international community, the ethnic cleansing policy was continuing. It was scandalized by the widespread and systematic rape of Muslim women in Bosnia and Herzegovina and was of the view that persons responsible for committing or ordering such serious crimes must be held individually responsible.

9. His delegation had been following with grave concern the intensification of intimidation, harassment and violence against minorities in Serbia, and particularly in Kosovo, Voivodina and in the Sandzak. The human rights and fundamental freedoms of the Albanian, Hungarian, Croatian and Muslim communities of those regions were being systematically and gravely violated by the authorities, as well as by the military and police forces. His delegation therefore once again called upon the international community to do whatever was necessary to protect the rights of all minorities in all areas of the former Yugoslavia and agreed with the Special Rapporteur concerning the need for the immediate deployment of human rights monitors in those endangered territories. Recent developments in those areas demonstrated the need to grant both territorial and cultural autonomy to the Hungarian minority in Voivodina as well as to the other minorities concerned.

10. Lastly, his delegation considered that, in view of the importance of the Special Rapporteur's work, he must be provided with all the logistical and other assistance he needed to carry out his task as effectively as possible.

11. Mrs. SURROY (International Federation of Human Rights) paid tribute to the excellent work done by the Special Rapporteur on the situation of human rights in the territory of the former Yugoslavia; it was to be hoped that his mandate would be renewed and that logistical assistance would be increased in proportion to his difficult task.

12. The International Federation was, however, concerned by the fact that the Special Rapporteur's recommendations had had little impact in the context of the support that must be provided to democratic and human rights groups if they were to be able to neutralize the nationalist ideologies which were at the origin of the conflict and to help a democratic process to emerge. Moreover, it would appear that the United Nations had not paid sufficient attention to the recommendation that national independent and democratic media should be supported in a context where many media disseminated information that was often false and provocative. Furthermore, the International Federation had for a long time been advocating the establishment of an international criminal court to try perpetrators of massive human rights violations when national courts were not in a position to do so.

13. The Special Rapporteur had drawn attention to the discriminatory measures and practices being carried out in Kosovo and she recalled that the International Federation had, for the previous five years, kept the Commission informed of the progression of discriminatory policies in that region. Indeed, contrary to Serbian allegations that Serbs and Montenegrins had been forced to leave by the Albanians, the fact was that 252,000 Albanians, according to the official population census, had emigrated to Turkey between 1953 and 1960. On the other hand, between 1946 and 1981, over 100,000 Serbs and Montenegrins from various parts of the former Yugoslavia had settled in Kosovo, with a view to its colonization.

14. The deterioration of the human rights situation in the civil, political, economic, social and cultural spheres in Kosovo was demonstrated by the fact that 450 Albanian judicial officers had been dismissed, that the Serbian Parliament had not only suspended Kosovo's Parliament and Government but also dismissed all local government civil servants, that the number of political prisoners had increased, that over 80,000 secondary school and university students were continuing their studies at home because the Serbian authorities denied them the right to education in their mother tongue, that Albanian radio and television broadcasts as well as the only daily Albanian newspaper had been banned since 1990, and that over 300 Albanian families had been evicted from their apartments in 1992.

15. The situation in Kosovo was particularly explosive since the Serbian authorities were arming the Serbian and Montenegrin population to the teeth and Serbian paramilitary groups were stepping up their intimidation of the Albanian population. The International Federation of Human Rights therefore called upon the Commission to urge the Serbian authorities to lift the military state of emergency in Kosovo forthwith and to transmit to the Security Council its request that United Nations peace-keeping forces should be sent to demilitarize that area completely. The necessary action must be taken to prevent the extension of the conflict in Kosovo to the Balkans as a whole.

16. Mr. ULLMANN (Co-ordinating Board of Jewish Organizations) said it was intolerable that at the present time crimes were being committed in Bosnia and

Herzegovina at the present time in conditions that the international community had thought could no longer exist. The abuses being perpetrated in the name of "ethnic cleansing" had been going on for too long in contempt of an international community that was powerless to ensure respect for international instruments which had nevertheless been approved and signed by the leaders of the former Yugoslavia.

17. It was known that there were at least 175 places of detention that had not been visited by the Red Cross, three-quarters of which were under the control of the Serbs who were responsible for rape and other inhuman cruelty there. His organization, whose members were survivors or the children of survivors of the death camps of the Second World War, was indignant at the obstacles placed in the way of the liberation of those camps and hoped that an international war crimes tribunal would be set up as soon as possible. Moreover, steps should be taken as a matter of urgency to prevent the criminals from fleeing before being prosecuted as they deserved for serious violations of fundamental human rights. Members of his organization who had been working in the field could, if necessary, give evidence before the competent tribunal of the terrible events that had taken place before their eyes.

18. Mrs. SCHÜLLER (Commission of the Churches on International Affairs of the World Council of Churches) said that the General Secretary of the World Council of Churches had, in December 1992, denounced "war crimes against women" and that, from 15 to 18 December 1992, an Ecumenical Women's Team had gone on a mission to Zagreb to demonstrate solidarity with the women victims of aggression and to find ways of providing them with concrete assistance. The Team's findings were that there was clear evidence of rape of women by all sides in Bosnia and Herzegovina, that there was clear evidence of the use of systematic mass rape as a weapon of war by members of the Serbian forces, and that the victims included children from the age of 10 as well as very old women, the majority being Muslims.

19. The Team deplored the fact that rape was considered as an inevitable fact of war and was part of the normal behaviour of armed forces. The international community must respond firmly when women were raped in military conflicts anywhere in the world. The Team accordingly recommended that the injustice suffered by women victims must be recognised, that international instruments must be strengthened so that rape in such circumstances was considered a war crime, that individuals who committed such crimes and the authorities who allowed them to do so should be held responsible for their acts, that the psychological needs of women who had been raped should be catered to and that the victims should be protected from intrusive media attention.

20. His organization considered that the Commission on Human Rights should attach greater importance to rape as a specific violation of human rights and called upon the United Nations to establish the machinery necessary to consider the question of violence against women.

21. Mr. BANDIER (International Association of Educators for World Peace) said that apparently in present circumstances the situation in the territories of the former Yugoslavia was apparently unlikely to take a turn for the better since human rights violations had been virtually institutionalized by certain factions.

22. The recent resumption of fighting in Krajina had given rise to an additional flood of refugees in Croatia, which was unfortunately unable to take care of them since its economy, which had depended mainly on the tourism industry, was in ruins. Croatia intended to open its frontiers to tourism once again but to do so it had to evacuate its hotels and send the refugees elsewhere. He drew attention to a very alarming recent trend in Croatia where young persons were now being encouraged to avenge their dead. It was therefore urgent, as the Special Rapporteur had stated, that the international community should finally realise how dramatic the situation was in that region of the world and take effective steps to correct it. The problem of the former Yugoslavia once again served to highlight the contradiction between two different concepts by raising the question of how the right of peoples to self-determination could be reconciled with the struggle against nationalism.

23. Mr. Ennaceur resumed the Chair.

24. Mr. RYDER (International Confederation of Free Trade Union) recalled that ICFTU, which represented 113 million trade unionists in 164 affiliated organizations, had on many occasions in the past called for effective international action to put an end to the abominations being committed in the former Yugoslavia. It was particularly concerned by two specific aspects of the situation, namely, the situation in Kosovo and the systematic and deliberate use of rape as an instrument of war.

25. In Kosovo the situation was explosive as a result of the repressive measures taken by the Serbian authorities against ethnic Albanians who accounted for some 90 per cent of its population. ICFTU urged that an immediate end should be put to the repression in Kosovo and that international observers should be sent there.

26. In 1991, the measures taken against the workers of Kosovo had formed the basis of a major complaint by ICFTU in the International Labour Organisation against the Yugoslav Government for violation of ILO Convention No. 111 on discrimination in employment. Over 100,000 ethnic Albanian workers had been the subject of discriminatory dismissals since July 1990 when Serbia had suspended Kosovo's Provincial Assembly and its judicial and security organs. On 26 July of that year the Serbian authorities had promulgated a new Law on "industrial relations in exceptional circumstances", which served as a pretext for mass dismissals for ethnic and political reasons. It had sought to justify the dismissals by invoking economic reasons, but that was belied by the fact that at the same time the Serbian authorities had promoted the recruitment of Serbian and Montenegrin workers, many of them from Bosnia and Herzegovina and from Croatia. In some cases, ethnic Albanians in Kosovo were evicted from their homes in order to provide accommodation for the newcomers. Ethnic Albanians experienced not only job discriminations but also routine harassment and intimidation, arbitrary arrests and extrajudicial killings. Activists of the Independent Union of Trade Unions of Kosovo (BSPK) had been particularly affected by such repressive measures; had received sentences of up to five years' imprisonment for "resisting the decisions of State organs", and a large number of prisoners were ill-treated and tortured.

27. ICFTU considered that the logic behind the objectives of the Serbian authorities with respect to the Albanians of Kosovo, which included the suppression of education in the Albanian language, was the same as that of the

ethnic cleansing they practised in other parts of the former Yugoslavia. Urgent action was required to put an end to the human rights violations that were being committed and to prevent further aggravation of the situation.

28. As for Bosnia and Herzegovina, ICFTU condemned the systematic mass rape and sexual abuse taking place and called for the immediate release of all women detainees. The international community must mobilize and provide the victims with material assistance. Certain ICFTU affiliates, such as those in France and Norway, were already acting to meet those needs and ICFTU itself was investigating the most appropriate forms of assistance. It called upon the Commission to state explicitly that rape as practised in the context of the conflict in the former Yugoslavia constituted a war crime and that its perpetrators should be prosecuted. The Commission might consider it opportune to recommend a more thorough study of the phenomenon of rape as a human rights violation and to revert to the question subsequently.

29. Mrs. PORTER (International League for Human Rights) said she wished to make a number of recommendations and proposals based on the findings of two missions that the International League had sent to the former Yugoslavia (14 to 22 November and 12 to 20 January). In the first place, it urged that rape, "forced pregnancy" and "ethnic cleansing" should be explicitly identified as war crimes. The international community must not, directly or indirectly, condone the acquisition of territory by ethnic cleansing; it must provide the victims as well as potential victims with effective protection and humanitarian relief. If that could not be done on the spot, a co-ordinated refugee strategy had to be developed.

30. Secondly, those who had perpetrated serious violations must be held accountable for them and an international war crimes tribunal set up. Not only the perpetrators of serious violations but also their superiors who tolerated such acts must be held personally responsible for them; there was an urgent need to establish a competent international tribunal to handle war crimes since domestic courts might not offer all guarantees of a fair trial.

31. Thirdly, the systematic collection and publication of information on human rights abuses should be organized. Although a large amount of information was available in governmental and intergovernmental circles concerning massacres, conditions of detention, the displacement of people and violations of humanitarian law in United Nations Protected Areas, and although a great deal of information was contained in the reports of UNPROFOR and other international bodies, such information was not collated systematically, notwithstanding the request made by the Security Council. Moreover, a large number of facts were not made public. The Secretary-General had not yet submitted the report requested under Security Council resolution 771 (1992). Moreover, the Commission of Experts established in October by the Security Council to examine and analyze information on serious violations of the Geneva Conventions and other violations of international humanitarian law had met once and would need time to prepare its findings and submit them to the Secretary-General.

32. The International League for Human Rights proposed that the United Nations Secretary-General should instruct all United Nations bodies with a presence in the former Yugoslavia to make available to the Commission of Experts set up by the Security Council all evidence of abuses of human rights and humanitarian law available to them; the focal point for that purpose could be the Centre for

Human Rights. Moreover, liaison should be established between the Centre for Human Rights and the Commission of Experts, which should arrange for the immediate investigation of information received on the existence of mass graves, for example. In addition, UNPROFOR's mandate should be expanded to give it the additional responsibility of collecting information, receiving complaints and reacting promptly in order to prevent violations or to record the violations committed. As suggested by the Special Rapporteur, human rights monitors should be immediately despatched to areas where the danger of ethnic cleansing was the greatest, namely, Vojvodina, Sandzak and Kosovo. Lastly, it would be extremely useful to collect the evidence furnished by persons who had been detained in Bosnia and Herzegovina and whose safety should be assured in transit camps and elsewhere.

33. Mr. VITTORI (Pax Christi) said he would refrain from repeating the list of abominations that had already been described by many speakers or trying to establish responsibility for them. In his view, the tragedy in the former Yugoslavia could probably have been avoided had political adventurers not exacerbated the nationalistic feelings of peoples and not persuaded them that their security was threatened where they lived as minorities. In a country emerging from dictatorship, human rights defence organizations had not been strong enough to bar the way to the criminal adventure of political leaders pretending that they had been converted to democracy. The inability of the great European Powers to speak with one voice had resulted in an escalation of the violence; traditional friendship between peoples had been denatured and replaced by a reprehensible accommodating attitude towards Governments.

34. Persons who had visited the former Yugoslavia had discovered hell with its retinue of horrors and humiliations, but they had also found communities where people of various nationalities, ethnic origins and religions still co-existed; and the authorities of those communities to maintain such co-existence in their territory. In August 1992, Pax Christi had, in the Sub-Commission, appealed to media possessing electronic equipment in the democratic countries to make the voice of those struggling for peace and respect for human rights heard in the former Yugoslavia. Since that time, several of the 11 radio stations that broadcast in Serbo-Croat had considerably increased the time they remained on the air. Yet it was deplorable that the peaceful opposition in Serbia and Croatia did not enjoy greater and more resolute international support and that war criminals should be the privileged interlocutors of international mediators. Pax Christi co-operated actively with pacifist and humanitarian movements and had participated in meetings such as those held in November 1992 at Ohrid in Macedonia, sponsored by the Council of Europe; the only real choice was between war or dialogue at all levels.

35. The international community should now prevent the extension of the conflict to areas where the war had not openly broken out - in Kosovo, for example, where the Albanian majority was experiencing without resignation - but with an admirable sense of responsibility - discrimination, dispossession and humiliation. Pax Christi welcomed with satisfaction the decision of the Conference on Security and Co-operation in Europe (CSCE) to send long-term assistance and observation missions to Vojvodina, Kosovo, Sandzak and Macedonia in order to prevent an escalation of violence. He called for the recognition of Macedonia and the convening of an international conference to determine the status of Kosovo and Vojvodina that guaranteed respect for the rights of minorities. He supported the proposal made by Mr. Mazowiecki, the Commission's Special Rapporteur, to create security zones in Bosnia and Herzegovina where

refugees could find food, shelter and safety, and called upon all States, and especially the wealthy countries, to accept a greater number of refugees.

36. It was with immense sadness that Pax Christi had noted the existence of a religious element in the concept of ethnic cleansing. That was a misappreciation of Islam, which was perceived in terms of its fundamentalist deviation. But even if the danger was recognised, nothing could justify or even excuse the rape of Muslim women, a form of genocide to which not even the Nazis themselves had stooped. The inter-religious dialogue that had been initiated should be broadened and the three major religions in the former Yugoslavia should together oppose all forms of violence that might be used to resolve supposed or real conflicts.

37. Pax Christi hoped that the Security Council would reach a realistic and resolute decision on the peace plan; military intervention must be avoided although intervention by international forces would be admissible and desirable in order to ensure, by means of deterrent protection, that assistance and relief supplies could be distributed.

38. Mrs. KRAMMER (International Progress Organization) said that Serbia had been waging a war of aggression against Croatia and Bosnia and Herzegovina for more than a year. The international community must intervene rapidly in order to put an end to the cruel suffering of the civilian population of those areas, and in particular the Muslim population of Bosnia and Herzegovina, and bring those responsible for the genocide to justice. Her organization also called for the immediate restoration of the frontiers of June 1991, the withdrawal of Serbian forces from the territories they had occupied, particularly in Croatia and in Bosnia and Herzegovina, and the recognition of Kosovo and Macedonia as independent States. However, any settlement of the conflict in the former Yugoslavia required a detailed analysis of its causes, including its geopolitical aspects. In that context, not only those responsible for the many atrocities committed in those areas, namely, looting and systematic rape, deportations (ethnic cleansing), destruction of homes, schools, hospitals, churches, mosques and cultural monuments, should be tried for their crimes but also those who had made such crimes possible through their support and encouragement. The political and military leaders of Serbia were guilty of genocide under article 2 of the Convention on the Prevention and Punishment of the Crime of Genocide and should therefore be punished as such in accordance with its article 4. But all the representatives of countries who had supported Serbia in the war, namely, the leaders of the former Soviet Union, of the United Kingdom, the United States, France and other European States, as well as the international organizations concerned, such as the United Nations, which had done nothing to stop Serbia and had failed to provide aid or comfort to the Croatian and Bosnian victims, should also be charged for their acts if the fundamental principles of international law were to have any meaning.

39. Her organization therefore reiterated its demand that the embargo imposed on Croatia and Bosnia and Herzegovina, should be lifted since its maintenance constituted a violation of the right of the Bosnians and Croats to self-determination and favoured the Serbian aggressor. Recalling that in accordance with Article 51 of the United Nations Charter, all Members of the United Nations had an inherent right to individual or collective self-defence if they were attacked, her organization appealed to the Commission on Human Rights immediately to take all necessary action to put an end to the genocide in the Balkans and prevent the conflict in that region from assuming broader and

perhaps even global dimensions. The sacrifice of sacred principles to political interests was likely to undermine the very spirit of the United Nations and compromise its mission.

40. Mr. DATO MUSA HITAM (Malaysia) expressed his gratitude to Mr. Mazowiecki, the Special Rapporteur on Yugoslavia, whose report (E/CN.4/1993/50) confirmed media reports of flagrant violations of human rights and principles of international humanitarian law in Bosnia and Herzegovina and emphasized the urgent nature of the work of the Commission of Experts. It should be realised that the war being waged by Serbia against Bosnia and Herzegovina, which was characterized by the odious practice of ethnic cleansing and during which some 20,000 Muslim women had been raped and 125,000 Bosnians killed - thousands more being imprisoned in Serbian concentration camps and over one million driven from their homes - was basically aimed at the creation of a greater Serbia. Those revolting acts as well as continuing bombardment of civil population centres and particularly Sarajevo, as well as the deliberate blockage of relief supplies sent to Muslim towns and villages, were reminiscent of a dark period in the history of Europe. What was so disheartening about the tragedy was that it was taking place not in a distant third world country but in the very heart of Europe, the cradle of Western civilization and humanistic tradition. Condemnation of the aggression by the Western countries was therefore not enough; in view of their power and resources, they had a duty to act in accordance with their commitments to human rights and international law for it was unimaginable that another genocide should be allowed to take place on European soil. It was also regrettable that, despite the appeals made by the majority of States Members of the United Nations in General Assembly resolutions 46/242 and 47/121, the Security Council, under the influence of certain countries, had not yet taken the measures provided for under the Chapter VII of the United Nations Charter, thereby denying Bosnia its inherent right to self-defence. Now that a peace plan had been submitted to it, the Security Council could no longer claim that it did not wish to do anything that might affect the peace process. It was therefore to be hoped that it would respect the views of the majority of the Members of the United Nations and that ultimately its decision would not run counter to its own resolutions adopted earlier on the situation in Bosnia and Herzegovina.

41. While appreciating the tireless efforts of the co-Chairman of the Conference on Yugoslavia, his Government feared that the delineation of the borders proposed in the peace plan they had drawn up would in a way legitimize Serbia's acquisition of territory by force and ethnic cleansing. It was also surprised that, at the dawn of the twenty-first century, a European country should be divided along ethnic and religious lines whereas Bosnia and Herzegovina had always been a multi-ethnic and multi-religious society. In any event, it considered that any cease-fire agreement must contain a clear-cut provision that all heavy weapons should be brought under United Nations control and subsequently destroyed by United Nations inspectors.

42. Without underestimating the value and importance of the peace process, Malaysia, like other States Members of the United Nations which shared its views, felt considerable disappointment that the principal sponsors of the plan and other major European countries had abstained from the vote on General Assembly resolution 47/121. Their reluctance might lead them to accept a settlement of the conflict which was contrary to the interests of Bosnia and Herzegovina in order to appease the Serbs, who were more powerful and better equipped than their victims, the Bosnians, who would thus be obliged to make concessions. A settlement of that nature would have serious consequences not

only for the future of the region but also for other regions of Europe where a resurgence of ethno-nationalism and racist intolerance was taking place. Millions of Muslims throughout the world were puzzled by the apathy and impotence of the Europeans to stop Serbian atrocities being committed against Bosnian Muslims and were beginning to wonder whether their inaction was not due to the fact that the victims were Muslims.

43. The Malaysian Government hoped that the new United States Administration, which was sympathetic to the plight of the Bosnian Muslims and shared many of the concerns felt about the peace plan proposed by Mr.Vance and Lord Owen, would play a more decisive role in getting the Security Council to take the steps required to bring about a just and durable peace in Bosnia and Herzegovina. History would judge not only the Security Council but certainly also the Europeans if they continued to do nothing. It was also to be feared that implementation of Security Council resolution 780/1992 and other relevant United Nations resolutions calling for those responsible for serious violations of international law and war crimes to be brought to justice might be bargained away in exchange for Serbian co-operation. It was therefore imperative that the Commission should not only fully support the work of the Commission of Experts but also urge it to complete its work as a matter of urgency. The Commission on Human Rights should call for the establishment of an ad hoc international war crimes tribunal as a top priority to bring to justice those responsible for grave violations of humanitarian war and war crimes in Bosnia and Herzegovina as well as in other parts of the territory of the former Yugoslavia.

44. Mr. PORTALES (Chile) said that his delegation condemned the atrocities committed in Croatia and in Bosnia and Herzegovina by the Serbian militia by ethnic cleansing, raping thousands of Muslim women and bombarding civilian populations, thereby rendering themselves guilty of true war crimes. The fact that each day people throughout the world could witness on television the methodical destruction of Sarajevo proved that those responsible for such crimes no longer had any conscience since they were acting openly and publicly. In the view of his delegation the origin of the conflict in the former Yugoslavia could be traced to the distortion of a fundamental principle connected with the concept of democracy and respect for human rights in general and the rights of ethnic minorities in particular, including the right of peoples to self-determination. For it was because the majority of States comprising the former Yugoslavia had decided democratically to exercise that right in order to escape the political domination of Serbia that the latter had declared war on them. It was noteworthy that Serbian aggression had been directed first of all against Slovenia, which had virtually no Serbian or other minorities. It had immediately become apparent that Serbia's essential objective was not to ensure respect for the rights of an ethnic minority but to preserve the integrity of a Federation in which it occupied pride of place. Croatia admittedly had a quite large Serbian minority, but there again Serbian aggression had not been intended to protect the rights of that minority since the Republic of Croatia had barely been established. Lastly, in Bosnia and Herzegovina, Serbia had not even used violations of the rights of the Serbian minority as a pretext; the Serbian leaders of Bosnia and Herzegovina and Serbia itself had clearly announced that they would not recognise the majority decision of the Bosnian people and had acted accordingly. Furthermore, if the Serbs were really acting in the interest of ethnic minorities, they would grant to the Albanians of Kosovo the independence that they were claiming for the Serbs of Croatia and Bosnia. In point of fact what the Serbs wanted was to create a "greater Serbia", in other words, to reunite all Serbs within one nation, and to that end they were using all means at their disposal, including violence.

45. The practical application of that racist theory, which had already done s much harm to Europe and mankind as a whole, could have serious consequences fo world peace, since all the States of the world consisted of different races an nationalities. The migration and blending of races had taken place throughout the world's history and were at the origin of the rights embodied in articles and 16 of the Universal Declaration of Human Rights. Moreover, international instruments intended to prohibit and curb racial discrimination, of which the most recent was the Declaration on the Rights of Persons belonging to National, Ethnic, Religious and Linguistic Minorities, adopted by the General Assembly a its last session, were at the heart of the international system for the protection of human rights. For that reason, Chile would continue to support wholeheartedly the efforts being made by the United Nations to prevent the formation of a greater racist Serbia and the disintegration of Croatia and of Bosnia and Herzegovina that would be the result. That was the only course ope to the international community if it did not wish to allow the aggressor to triumph and to create a disastrous precedent which would simply encourage all racist and nationalist groups, however small, to seize the least opportunity offered to them to promote national expansionism and consequently violate huma rights and jeopardize world peace.

46. Mr. HALINEN (Finland), speaking on behalf of Denmark, Iceland, Norway an Sweden as well as its own country, said that the Governments of the Nordic countries felt deep dismay at the violations of human rights perpetrated in th former Yugoslavia and particularly in Bosnia and Herzegovina; the Serbs bore t primary responsibility for those atrocities, which had led to the displacement of over 3 million people. The Commission's condemnation of those violations a its two special sessions and the appointment of a Special Rapporteur on the situation of human rights in the territory of the former Yugoslavia clearly demonstrated that the Commission was determined to contribute, within its mandate, to the solution of the critical human rights problems that arose in that area. The Governments of the Nordic countries regretted that the peace plan proposed by the co-Chairman of the Conference on Yugoslavia had not been approved by all parties. They were convinced that a negotiated peace settlemer offered the only viable solution for the peoples of Bosnia and Herzegovina and therefore appealed to all parties to the conflict to subscribe immediately and fully to that plan. It should be noted in that connection that the new constitutional settlement proposed for Bosnia and Herzegovina contained strong safeguards for the protection of human rights and the rights of persons belonging to minorities.

47. The report submitted by Mr. Mazowiecki (E/CN.4/1993/50) clearly illustrated the gravity of the situation in the former Yugoslavia. His delegation noted with satisfaction the implementation of some of the recommendations contained in Mr. Mazowiecki's previous reports, including the extension of UNPROFOR's mandate, as well a the establishment, by Security Council resolution 780 (1992), of a Commission of Experts to receive and analy information on alleged war crimes committed in the territory of the former Yugoslavia. It urged the Special Rapporteur to continue to collect informatio in order to facilitate the work of the Commission of Experts and emphasized th need to provide it with adequate resources so that it could carry out its task However, in view of the information already received, the United Nations and appropriate regional organizations should urgently consider the early establishment of an international tribunal to try persons responsible for war crimes, as proposed by the CSCE Rapporteurs on Bosnia and Herzegovina. That tribunal would be of an ad hoc nature and its establishment would therefore no prejudge the question of the possible establishment of a more permanent

international criminal court which was now being considered by the International Law Commission.

48. In order to prevent the emergence of other conflicts similar to that in the former Yugoslavia, greater emphasis in the United Nations human rights protection system should be placed on preventive measures, which entailed the creation of an effective early warning mechanism to be co-ordinated with other relevant United Nations activities, such as peace-keeping operations. The capacity of the United Nation to analyze the information it received so that it could be in a better position to take preventive action should also be strengthened. In that context, the Governments of the Nordic countries emphasized the need to intensify international efforts to prevent the extension of the armed conflict to Kosovo and Macedonia; for that reason they wholeheartedly supported the expansion of CSCE monitoring missions in those areas. The despatch to Macedonia of the Nordic UNPROFOR battalion was to be the first example of preventive deployment to prevent further escalation of the conflict.

49. The Governments of the Nordic countries also condemned the attacks launched against humanitarian relief convoys and similar missions in the region. Effective measures must be taken to ensure the safe distribution of assistance and to protect civilian populations, including refugees and displaced persons. To that end all parties to the conflict should guarantee the safety of the staff of UNHCR and other United Nations bodies, as well as of ICRC, in order to enable them to carry out their humanitarian tasks. Lastly, the Governments of the Nordic countries urged all parties to the conflict promptly to implement the recommendations made by Mr.Mazowiecki concerning in particular immediate release of all prisoners and the closure of places of detention. They supported the proposal that the Special Rapporteur's mandate should be extended until human rights and fundamental freedoms were fully restored and guaranteed in the former Yugoslavia.

50. Mr. JIN Yongjian (China) said that the crisis in the former Yugoslavia was a serious threat to peace and stability in Europe as well as in the world. For over a year, the escalation of ethnic confrontations and armed conflicts had resulted in many deaths and considerable destruction of property. Over 3 million persons had been displaced or become refugees and their human rights and fundamental freedoms were being seriously violated. It was regrettable that, despite the efforts made by the United Nations and the international community to restore peace to that region, the conflict was continuing and people were still suffering. China was seriously concerned by that situation.

51. His delegation was of the view that the various organs and agencies of the United Nations had to embark upon complementary activities if a solution was to be found to the crisis in the former Yugoslavia. It appreciated the humanitarian work being done by the international community, and in particular by UNHCR and ICRC, to alleviate the sufferings of victims of the war. The Commission, for its part, should constantly endeavour to protect human rights in the former Yugoslavia. The Chinese Government was convinced that the solution to the Yugoslav crisis, including the conflict in Bosnia and Herzegovina, could be found only through dialogue and negotiation. History had shown that disputes between States or nations could not be settled by war and that the use of force could only intensify confrontation and deepen hatred. It was vital that the parties to the conflict in Bosnia and Herzegovina should agree to a complete cease-fire, which was an important prerequisite for a peaceful solution to the

crisis and by which the fundamental interests of all nationalities in the region could be protected.

52. The situation in the former Yugoslavia was a cruel reminder of the importance and complexity of the question of nationalities. His Government hoped that the Commission would make a positive contribution to the task of safeguarding unity and ethnic harmony in all countries while promoting respect and guaranteeing human rights and fundamental freedoms.

53. Mr. BAATI (Tunisia) said that his country welcomed the fact that an item on the situation of human rights in the former Yugoslavia had been included in the agenda of the Commission's present session. His delegation paid tribute to the work of Mr. Mazowiecki, Special Rapporteur on the situation of human rights in the territory of the former Yugoslavia, who had spared no effort to describe the facts of the situation. It supported his recommendations and hoped that they would be just as effective as the resolutions adopted hitherto by the international community condemning the Serbian authorities for human rights violations, as well as failure to respect United Nations resolutions and the obligations they had assumed.

54. Tunisia remained convinced that the main victims of those violations were Muslims who were threatened with extermination as a result of the monstrous practice of ethnic cleansing. The damning reports prepared so far revealed that serious violations of human rights and international humanitarian law were continuing in a State Member of the United Nations whose independence, sovereignty and cultural identity were being flouted. For that reason, the search for a lasting and effective solution to the conflict should take into account the legitimate concern of the Government of Bosnia and Herzegovina about territorial division and the status of Sarajevo so that ethnic cleansing could be ended once and for all.

55. The rape of women and children which had now been confirmed was an abominable and degrading act and constituted a further affront to the international community. All the abominations that accompanied ethnic cleansing would uproot thousands of persons who would be left to their own devices. It would therefore be vital to ensure the safe and dignified return of refugees and uprooted people who had been forced to abandon their homes in order to escape persecution and extermination. Moreover, the decisions adopted by the international community must be implemented immediately in order to make sure that international law prevailed and provide firm guarantees of respect for human rights. The credibility of the United Nations would only be strengthened thereby. Tunisia for its part would continue to defend the preeminence of law and respect for international legality.

56. Mr. KOSTOVIC (Observer for Croatia) complimented the Special Rapporteur on his work and deplored the inability of the international community to find ways of putting an end to the genocide of the Croatian and Muslim population. The systematic practice of ethnic cleansing in addition to the mass rape of Muslim and Croatian women and girls did not seem to be diminishing despite strong condemnation by the international community and the resolutions adopted by the Commission at its two special sessions as well as by a number of other governmental and non-governmental bodies. That unequivocal condemnation had apparently not disturbed the Yugoslav Government, which claimed that the crimes for which it was responsible were simply the invention of anti-Serbian

propaganda. It was an easy matter to call for its condemnation but the restoration of justice to the region entailed, first and foremost, the establishment of an international tribunal to try those responsible for war crimes and prevent similar crimes from occurring in other parts of the former Yugoslavia, since it was clear that the Serbs were quite determined to create a greater Serbia. His delegation therefore called upon the Commission on Human Rights to denounce as such the genocide been committed against the Muslim and Croatian population and do whatever was required under international conventions.

57. From the very beginning of the aggression launched against Croatia, the Croatian Government and non-governmental institutions in Croatia had regularly informed the international community of the serious violations of human rights being committed by the Serbian aggressor. For example, the Republic of Croatia, following its recognition in January 1992, had appealed to 50 Governments and the international community to protect Croatian citizens who remained in occupied Croatian territory, as well as prisoners in concentration-like camps. At the same time, several international humanitarian organizations, as well as Mr. Mazowiecki and Mr. Kalshoven, the Special Rapporteurs, had been provided with complete evidence of the flagrant violations being committed by the Serbs in Croatia. Furthermore, the Republic of Croatia had submitted to the Security Council three reports on violations of humanitarian law and the Geneva Conventions committed in the territory of the former Yugoslavia which provided details of the atrocities committed against civilians and of the implementation of an ethnic cleansing policy.

58. His delegation drew the Commission's attention to the case of the town of Vukovar as an example of a particularly serious violation of the Geneva Conventions. In three months of indiscriminate shelling, which had caused the death of 1,851 persons, Vukovar had been literarily razed to the ground. In the course of two days in November 1991, after the Yugoslav army and Serbian forces had occupied the town, 2,600 persons - of whom 85 were children and 800 women - had disappeared. It was believed that most of them had been summarily and arbitrarily executed. The total number of persons who had disappeared in Croatia was now 13,788. Deliberate attacks on hospitals and ambulances also constituted violations of the Geneva Conventions. The Croatian delegation hoped that the Commission of Experts set up under Security Council resolution 780 (1992) would eventually be able to shed light on the fate of some 300 patients and staff of Vukovar hospital who had disappeared. Of the 5,261 persons who had been released on the basis of exchanges from Serbian concentration camps and prisons, 3,766 were from Vukovar. According to internationally verified medical documents, over 90 per cent of those prisoners had been tortured. Moreover, about 1,000 non-Serbian citizens had been killed and the number of missing persons was certainly greater than that estimated. The structure of the local population had therefore been completely changed in favour of Serbian nationals, particularly in eastern Slavonia. Over 500 Croatian villages had been destroyed, more than 350,000 Croatian citizens had been forced to flee, and Croatian religious and cultural monuments had been deliberately shelled and destroyed.

59. The most brutal crime of the war had been committed against women who were the victims of mass rape, which was part of the ethnic cleansing strategy followed in certain areas, and as a result of which all Croatians and Muslims had been expelled. Mass rape was clearly being practised systematically and was unquestionably a war crime.

60. In addition to the crimes committed in Croatia, atrocities were being perpetrated in the territory of Bosnia and Herzegovina. Almost 2,400 persons had disappeared in Bosnian Posavina, 1,941 persons from Bosnia and Herzegovina were at present being detained in Serbian camps and 1,918 persons had disappeared. Most of the victims in Croatia and in Bosnia and Herzegovina were civilians, of whom hundreds of thousands had been displaced and become refugees. Croatia now sheltered almost 700,000 refugees and displaced persons, who were prevented from returning to their homes by the Serbs. The situation of displaced persons and refugees from United Nations Protected Areas, at present under UNPROFOR control, was particularly difficult. Not a single person had been able to return to his home since UNPROFOR had embarked upon its task. Quite recently, 900 Croats living in the southern sector and in the "pink zone" had been exposed to the brutality of Serbian paramilitary forces, imprisoned and then expelled. That was one of the clearest examples of the policy of ethnic cleansing which was being carried out in Croatian territory, unfortunately, before the very eyes of the United Nations.

61. That dramatic situation called for the urgent and effective implementation of the Vance Plan for Croatia and an equivalent plan for Bosnia and Herzegovina unless the number of victims was to increase still further. The Croatian delegation called for the urgent establishment of an international tribunal to prosecute war criminals whose names had already been revealed publicly.

62. Mr. ZAHRAN (Observer for Egypt) said that the simultaneous consideration of the question under discussion by the Commission on Human Rights and the Security Council was a measure of the seriousness of the situation in the territory of the former Yugoslavia. Indeed, what was at stake was the survival of an entire people since the Yugoslav Government's objective was to empty Bosnia and Herzegovina of its indigenous population and obliterate their religious and cultural identity. Nor should it be overlooked that the idea of creating a greater Serbia was completely illegal under international law. In the context of its ethnic cleansing strategy, the Serbian Government, with the support of the militia and the army, was committing violations of all kinds and had not hesitated to indulge in the most contemptible and cruel acts such as the systematic mass rape of women and children. His Government had expressed its views on the subject in two letters sent by the Minister of Foreign Affairs to the United Nations Secretary-General as well at the special meeting of the Ministers of Foreign Affairs of the Islamic countries.

63. The various conditions that had to be satisfied before the international community could adopt and pursue an effective strategy included the clear identification of the aggressor (which, without any doubt, was the Yugoslav Government), the comprehensive application of Chapter VII of the United Nations Charter and recognition of the inherent right of Bosnia and Herzegovina to self-defence. Moreover, Security Council resolution 713 (1992) imposing an arms embargo on the former Yugoslavia must not be applied to Bosnia and Herzegovina so long as it was being attacked by the Serbs. The international community should oppose by all means at its disposal the operations of the Serbian forces, the purpose of which was to seize certain areas by force, such as the eastern part of Bosnia and Herzegovina and the frontier region of Serbia and to empty them of their population in order to prevent the formation of an autonomous Muslim province. Furthermore, all heavy weapons should be placed under United Nations control and arrangements made for the safe return of displaced persons and refugees. An international tribunal should also be established to try

Serbian war criminals and oblige the Yugoslav authorities to pay compensation to victims in Bosnia and Herzegovina.

64. His delegation paid tribute to the Special Rapporteur and reaffirmed its support for all the measures he had proposed to put an end to the conflict. The international community should go beyond the stage of compassion and verbal condemnation and provide itself with means for effective intervention in the field.

65. Mr. ALAEE (Islamic Republic of Iran), speaking in exercise of the right of reply, said he wished to revert to what had been said the previous day by Mr. Hogg, Minister of State for Foreign and Commonwealth Affairs of the United Kingdom of Great Britain and Northern Ireland concerning the Rushdie affair. Mr. Rushdie's publication of his "Satanic Verses" had been a turning point in the history of insults and blasphemy against revealed religions and had resulted in the loss of life and considerable violence among Muslims. It was the duty of the United Kingdom authorities to redress the outrage experienced by Muslims at Mr. Rushdie's book and not to fan the flames of an already explosive situation. Blasphemy against any revealed religion could not be justified, either morally or legally, in the name of the right to freedom of expression or opinion. Publication of the "Satanic Verses" had been a most dispicable act which deserved universal condemnation. The Islamic countries accordingly strongly condemned the book which had gone too far in its indecency and irrespect towards Islam and constituted flagrant abuse of the principle of the right of expression. His delegation would also point out that the fatwa was an eternal religious ruling and deplored the attitude of the United Kingdom Government, which should endeavour to repair the outrage rather than try to protect an opportunistic author like Mr. Rushdie.

The meeting rose at 1.10 p.m.